

THE SUPREME COURT OF WASHINGTON

In the Matter of the Personal Restraint Petition
of

ROBERT LEE YATES, JR.,

Petitioner.

**ORDER GRANTING STAY OF
EXECUTION AND
APPOINTING COUNSEL**

Supreme Court No.
82101-1

FILED
2008 SEP 11 P 2:57
STATE OF WASHINGTON
SUPREME COURT
RONALD R. DEGEN
CLERK

Robert Lee Yates, Jr. was convicted of Aggravated First Degree Murder in Pierce County cause number 00-1-03253-8 and the sentence of death was imposed.

This Court affirmed Mr. Yates' conviction and death sentence on direct appeal in *State v. Yates*, 161 Wn.2d 714. The Court denied Mr. Yates' motion for reconsideration on December 24, 2007. Mr. Yates filed a Petition for Writ of Certiorari in the United States Supreme Court on March 20, 2008. The United States Supreme Court denied Mr. Yates' petition on June 23, 2008. On July 28, 2008, a letter from Mr. Yates requesting appointment of new counsel for the preparation and presentation of a first personal restraint petition was received and filed. Pursuant to RAP 12.5(c)(3), on August 1, 2008, this Court issued the mandate in the direct appeal.

The Pierce County Superior Court issued a Death Warrant for Robert Lee Yates on September 5, 2008. The warrant schedules the execution of Mr. Yates on September 19, 2008. On September 8, 2008, counsel for Mr. Yates filed an APPLICATION FOR STAY OF EXECUTION UNDER RAP 16.24 describing the grounds for relief pursuant to RAP 16.24. The application for stay identifies at least one ground for relief that is not patently frivolous.

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On September 10, 2008, the Office of Public Defense filed a letter recommending the appointment of Ronald Ness as counsel and Judith Mandel as co-counsel for the perfection of a personal restraint petition.

RCW 10.73.150 authorizes the appointment of counsel for a first personal restraint petition. RAP 16.25 sets the qualifications for appointment of counsel and co-counsel in death penalty appeals and personal restraint petitions. Pursuant to RAP 16.25, the Court has determined that Ronald Ness and Judith Mandel meet the qualifications and standards of RAP 16.25 for appointment of counsel and co-counsel in a personal restraint petition.

Now, therefore, it is hereby

ORDERED:

1. Pursuant to RAP 16.24, the Application for a Stay of Execution is granted and further proceedings in the trial court are stayed until further order of this Court.
2. Ronald Ness and Judith Mandel are appointed as counsel and co-counsel for Robert Lee Yates, Jr. effective as of the date of this order.
3. The personal restraint petition is due for filing 180 days from the effective date of the appointment of counsel. The personal restraint petition should be served on opposing counsel and Petitioner at the same time it is filed. The personal restraint petition should not exceed 50 pages in length. The brief in support of the personal restraint petition should not exceed 250 pages in length.


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4. The response to the personal restraint petition is due for filing 120 days after the personal restraint petition is filed. The response should be served on opposing counsel and Petitioner at the same time it is filed and not exceed 250 pages in length.

5. The reply brief is due for filing 30 days after the response is filed. The reply brief should be served and filed on opposing counsel and Petitioner Yates at the same time it is filed and should not exceed 75 pages in length.

DATED at Olympia, Washington this 11th day of September, 2008.

For the Court,


CHIEF JUSTICE